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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1938

No. 154

UNITED STATES OF AMERICA,
Petitioner,

vs.

KATHLEEN McCLURE, AS ADMINISTRATRIX OF THE ESTATE OF JOHN F. McCLURE, DECEASED, AND INDIVIDUALLY,
Respondent.

BRIEF OF RESPONDENT.

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INDEX.

Subject Index.

	Page
Opinion of the court below	1
Summary of argument	1
1. The court below did not hold that the benefits of Section 305 was a gratuity and hence the trial court did have jurisdiction	2
2. Section 305 provides for the revival of insurance when the conditions therein stated have been met, notwithstanding that such conditions may have occurred after July 2, 1927, which date is fixed generally under Section 301 for the termination of term insurance	4

Citations.

Cases:

Case of Joseph T. Wargo (Pet. Brief 62-65)	11
Case of Morris Cherniovsky (Pet. Brief 58-62)	11
Ex Parte, U. S., Petitioner, 226 U. S. 420-424	10
Petri v. *Creelman Lumber Co.*, 199 U. S. 487, 497	10
Rogers v. *United States*, 185 U. S. 83	10
Townsend v. *Little*, 109 U. S. 504, 512	10
U. S. v. *Arzner*, 187 U. S. 470	12
U. S. v. *Atchison*, 220 U. S. 37	9
U. S. v. *Ellison*, 74 F. (2d) 864	4
U. S. v. *Hendrickson*, 53 F. (2d) 797	4
U. S. v. *Jackson*, 502 U. S. 628	12
U. S. v. *Knott*, 69 F. (2d) 907	4
U. S. v. *Mathews*, 173 U. S. 381	10
U. S. v. *Patryas*, 303 U. S. 341	12
U. S. v. *Sellers*, 75 F. (2d) 623	4
U. S. v. *Vance*, 48 F. (2d) 472	4
U. S. v. *Weaver*, 86 F. (2d) 372	4
White v. *U. S.*, 270 U. S. 175	12

Statutes:

	Page
Act of June 7, 1924, c. 320, 43 Stat. 607	8
Act of March 4, 1923, c. 291, Sec. 7, 42 Stat. 1521, 1525-6	7
Act of August 9, 1921, c. 57, 42 Stat. 147, 156	7
Section 301, W. W. V. A., 44 Stat. 686, 38 U. S. C., Sec. 512	5
Section 304	8, 9
Section 305, W. W. V. A., 44 Stat. 799, 38 U. S. C. 512	6

Miscellaneous:

H. R. 1217, 69th Congress, 1st Session	11
H. R. 12175, May 24, 1926, page 13	11
H. R. 6611, 67th Congress	3

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BRIEF OF RESPONDENT.

Opinion of the Court Below.

The District Court rendered no opinion. The opinion of the Circuit Court of Appeals (R. 49-59) is reported in 95 F. (2d) 744.

Summary of Argument.

1:

The Circuit Court did not hold that the insurance conferred by Section 305 was a gratuity but merely that the revival thereof was a gratuity and that therefore the trial court did have jurisdiction.

2.

A. The legislative division of Sections 301 and 305 indicates a clear intent that 305 should constitute an exception to the limitation contained in Section 301.

B. The Circuit Court of Appeals did not fail to notice any administrative construction of Section 305 but merely held that no administrative practice was proved and none is shown in the Government's brief in this Court.

C. The statutes in regard to war risk insurance have been and should be liberally construed in favor of the insured.

It is difficult to enlarge upon the opinion of the Circuit Court of Appeals (R. 49-59) and the matters contained in this brief are largely in furtherance of the position taken by the Circuit Court of Appeals and not noticed by it in its opinion and it is earnestly urged that the opinion of the Circuit Court of Appeals fully covers the matter in question in a lucid and logical manner and should require little, if any, argument in further support thereof.

ARGUMENT.

1.

The court below did not hold that the benefits of Section 305 was a gratuity and hence the trial court did have jurisdiction.

The Government contends that the Circuit Court of Appeals in its opinion determined that the benefits provided by Section 305 are a gratuity and as such cannot be made the basis of a suit under Section 19 of the Act, which confers jurisdiction upon the District courts to hear causes "under a contract of insurance." It is not believed that the opinion so holds but only that the payment of insurance benefits are determined in an amount by the application of the gratuitous rules provided by Section 305 In other words, there must

first have existed an insurance contract, which has lapsed for nonpayment of premiums and there must have existed at the time of the lapse a compensable disability of the insured for which compensation was not paid and there must further exist an amount of uncollected compensation at the time of the claimed maturity of the policy by reason of death or total permanent disability; the Government will then resort to the gratuitous application of such compensation to the payment of the premiums as the same would have become due and the amount of insurance so revived is determined by the amount of compensation which was due and unpaid.

That the insurance so revived is not a gratuity is clear from the fact that the unpaid premiums are in fact paid by deducting from the face of the insurance the amount of such unpaid premiums together with interest thereon at the rate of 5%. The resulting payment to the insured or his beneficiaries is reduced accordingly.[1]

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[1] That insurance revived was not intended by Congress to be a gratuity, is apparent from the Senate Report on H. R. 6611, 67th Congress, which Bill originated Section 408 of the Act of August 29, 1921, the original House Bill containing no provision for the payment of interest. The Senate report on this Section (231, p. 12) states as follows:

"1. Government life insurance policies (converted insurance) provided for collection of interest in all cases of reinstatement at the rate of 5 per cent per annum, and if this bill should become a law as it now stands it would immediately change this provision in the policy in all cases that are now lapsed, where the disability is of service origin. All reinstatements that have been made have been on the basis of interest at 5 per cent per annum.

2. The Government life insurance fund is now earning and has averaged since it begun to invest its fund an interest rate of better than 5 per cent, and to allow a certain class to reinstate on a rate of interest less than others have been charged of the same class is manifestly unfair to those who have paid 5 per cent.

The second proviso of the House bill, which relates specifically to persons entitled to compensation under article 3 of the war risk insurance act, declares that insurance shall not lapse if such compensation has not been collected or if no claim has been made therefor, if at the time of lapse the insured was entitled to compensation in a sum equal to or in excess of the amount due from him in premiums,

That the trial court had jurisdiction was conceded in the Circuit Court (R. 59) and has been uniformly so determined by the number of cases wherein this Court has denied certiorari and by decisions in the various circuit courts of appeal:

U. S. v. *Ellison*, 74 F. (2d) 864 (C. C. A. 4), certiorari denied 295 U. S. 750;
U. S. v. *Sellers*, 75 F. (2d) 623 (C. C. A. 5), certiorari denied 295 U. S. 763;
U. S. v. *Knott*, 69 F. (2d) 907 (C. C. A. 6);
U. S. v. *Hendrickson*, 53 F. (2d) 797 (C. C. A. 10);
U. S. v. *Vance*, 48 F. (2d) 472 (C. C. A. 8);
U. S. v. *Weaver*, 86 F. (2d) 372 (C. C. A. 4),

and in view of the long line of decisions wherein the courts have uniformly held that jurisdiction obtained to hear and determine cases invoking the benefit of Section 305 we do not believe that the Government's contention to the contrary can be seriously urged.

2.

Section 305 provides for the revival of insurance when the conditions therein stated have been met, notwithstanding that such conditions may have occurred after July 2, 1927, which date is fixed generally under Section 301 for the termination of term insurance.

A. The only question of any merit before this Court is that concerning the applicability of Sections 301 and 305 of

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and directs the bureau to pay the insurance to the beneficiaries. There is no provision in the House bill for the payment of premiums due on such insurance. Your committee believes that as under this provision the insurance is not to lapse, but to be regarded as remaining in force, the section should be amended to require the deduction of the premiums due and interest thereon at 5 per cent per annum compounded annually before making payment to the beneficiary under the policy."

the World War Veterans Act, as amended, to the facts presented in this case, the full statement of which is set forth in the Government's brief. The only material facts being:

First, that the insured, a World War veteran permitted his insurance to lapse for nonpayment of premiums due in February, 1919 (R. 29).

Second, that he became permanently and totally disabled December 1, 1929 (R. 29).

Third, that at the date of lapsation of his insurance he was suffering from a compensable disability for which there was due and uncollected compensation and on the date of his total permanent disability there remained due and uncollected compensation (R. 29).

The pertinent provisions of Section 301 of the World War Veterans Act of 1924, as amended July 2, 1926, 44 Statutes 686, 38 U. S. C. Section 512, are as follows:

"• • •

"All yearly renewable term insurance shall cease on July 2, 1927, except when death or total permanent disability shall have occurred before July 2, 1927: *Provided, however,* That the Director may by regulation extend the time for the continuing of yearly renewable term insurance and the conversion thereof in any case where on July 2, 1927, conversion of such yearly renewable term insurance is impracticable or impossible due to the mental condition or disappearance of the insured.

"In case where an insured whose yearly renewable term insurance has matured by reason of total permanent disability is found and declared to be no longer permanently and totally disabled, and where the insured is required under regulations to renew payment of premiums on said term insurance, and where this contingency is extended beyond the period during which said yearly renewable term insurance otherwise must

be converted, there shall be given such insured an additional period of two years from the date on which he is required to renew payment of premiums in which to reinstate or convert said term insurance as hereinbefore provided: *Provided*, That where the time for conversion has been extended under the second paragraph of this section because of the mental condition or disappearance of the insured, there shall be allowed to the insured an additional period of two years from the date on which he recovers from his mental disability or reappears in which to convert. * * *"

Section 305 of the World War Veterans Act of 1924 as amended, 44 Statutes 799, 38 U. S. C. 516:

"Availability of compensation to revive insurance. Where any person has, prior to June 7, 1924, allowed his insurance to lapse, or has canceled or reduced all or any part of such insurance, while suffering from a compensable disability for which compensation was not collected and dies or has died, or becomes or has become permanently and totally disabled and at the time of such death or permanent total disability was or is entitled to compensation remaining uncollected, then and in that event so much of his insurance as said uncollected compensation, computed in all cases at the rate provided by section 302 of the War Risk Insurance Act as amended December 24, 1919, chapter 16, Forty-first Statutes, page 371, would purchase it applied as premiums when due, shall not be considered as lapsed, canceled or reduced; and the Veterans' Administration is hereby authorized and directed to pay to said soldier, or his beneficiaries, as the case may be, the amount of said insurance less the unpaid premiums and interest thereon at 5 per centum per annum compounded annually in installments as provided by law: *Provided*, That insurance revived after June 7, 1924, under this section and section 516b of this title by reason of permanent and total disability or by death of the insured, shall be paid only to the insured, his widow, child or children, dependent mother or father, and in the order

named unless otherwise designated by the insured during his lifetime or by last will and testament: [2] *Provided further*, That compensation which is uncollectible by reason of the provisions of section 310 of the War Risk Insurance Act, as amended, or section 499 of this title, shall be considered as uncollected compensation for the purposes of this section." [3]

Prior to the Act of August 9, 1921, c. 57, 42 Statutes 147, 156, there was no provision in the War Risk Insurance Act comparable to Section 305. However, by Section 27 of that Act a new section denominated Section 408, was added to the War Risk Insurance Act, which Section provided *first* for *reinstatement* of insurance where the applicant was unable to meet the requirements as to physical condition and *second* provided for the *revival* of insurance, which had lapsed where the insured had died and where at the time of lapse and at the time of death he was entitled to uncollected compensation. That entire section contained no limitation on the applicability of its provisions except that as to the provision for revival the insured must have died.

By the Act of March 4, 1923, c. 291, Section 7, 42 Statutes 1521, 1525-6, the entire section was amended and it was provided that the revival of insurance under the stated conditions would be applicable to one who "*dies or has died or becomes or has become totally and permanently disabled,*" thus projecting into the future and making prospective the benefits of that section to those who "at the time of such death or permanent and total disability had or has sufficient uncollected compensation to pay *all* unpaid premiums." Section 404 (Section 301) was not amended at that time.

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[2] Proviso added by Act of July 2, 1926, 44 Stat. 799.

[3] Proviso added by Act of May 29, 1928, 45 Stat. 971.

The amendment of May 29, 1928, indicates a realization that Section 305 was not limited in time to July 2, 1927.

By the Act of June 7, 1924, c. 320, 43 Statutes 607, the entire War Risk Insurance Act was rewritten into what is now known as the World War Veterans Act and Section 404 therefore existing became Section 301 in its present form so far as material to the question here involved. By that Act Section 408 was separated into Section 304[4] and 305. Section 304 incorporating that part of Section 408 relating to the reinstatement of insurance where the applicant was unable to meet the physical requirements. There was added thereto the express provision "that no term insurance shall be reinstated after July 2, 1926," thus making Section 304 conform to the stated limitation of term insurance contained in Section 301.

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[4] Section 304:

"In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the applicant for insurance have been complied with, and application for reinstatement, in whole or in part, of lapsed or canceled yearly renewable term insurance or United States Government life insurance (converted insurance) hereafter made may be approved if made within one year after the passage of this Act or within two years after the date of lapse or cancellation: *Provided*, That the applicant's disability (if any) is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the World War: *Provided further*, That the applicant during his lifetime submits proof satisfactory to the director showing the service origin of the disability or aggravation thereof and that the applicant is not totally and permanently disabled. As a condition, however, to the acceptance of an application for the reinstatement of lapsed or canceled yearly renewable term insurance, where the requirements as to the physical condition of the applicant have not been complied with, or, for the reinstatement of the United States Government life insurance (converted insurance) in any case, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest of the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy: *Provided further*, That no term insurance shall be reinstated after July 2, 1926." (This date was changed by the 1926 amendment to read July 2, 1927.)

Section 305, *supra*, contained no such limitation on the revival of insurance through the medium of unpaid compensation. It thus is apparent in the original enactment of the World War Veterans Act of 1924, that Congress did not consider that the limitation on term insurance projected itself throughout the entire act and consequently found it necessary to include such limitation expressly in Section 304 and to exclude it from Section 305, indicating a clear congressional intent that term insurance might be revived under the provisions of Section 305 in the situation here presented, notwithstanding Section 301. This accounts for the division of the original Section 408 into the two Sections 304 and 305 with a time limitation made applicable only to Section 304.

In determining the legislative intent in this situation, that is, by the inclusion in Section 304 of the time limitation of term insurance and its exclusion from Section 305 the rule is well stated by this Court in the case of *U. S.* v. *Atchison, T. and S. F. Ry.*, 220 U. S. 37, wherein the court said:

> "the presence of such a provision in one part and its absence from its other is an argument against reading it as implied."

It seems clear that Congress intended that there should be no time limitation on the applicability of Section 305,[5] probably as pointed out by the Government in its brief, page 29, they must have "anticipated that as time went on the number of cases meeting the conditions of 305 would pro-

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[5] In the hearings before the Senate Committee on H. R. 6611, 67th Congress the Honorable Richard Elliott, who had proposed the amendment which is now 305, stated it as follows (H. R. 6611, part 1, p. 12):

> "It seems to me, gentlemen, that this is a meritorious proposition. *The Government owed these men more money than they owed the Government* and in addition to that, it was money that was earned by their very lifes' blood which they poured out on the altar of their country for their country's benefit."

gressively diminish;" therefore the section itself contains a self-executing time limitation. As also pointed out, both Sections 301 and 304 deal with insurance whereon premiums must be paid. Whereas, Section 305, neither requires nor permits the payment of premiums on insurance.[6]

There is no inconsistency in the two sections of the statute since Section 301 relates to insurance in force or to be reinstated and converted, and provides only that term insurance shall cease on a certain date and may then be converted into other forms of insurance. Whereas, Section 305 provides only for revival of insurance, which lapsed prior to June 7, 1924, and which may thereafter be matured only under the circumstances therein set forth.

It is readily apparent that Section 305 is applicable only to a very limited class and does not and cannot apply to insurance generally. Consequently, there is no conflict between the general terms of 301 and the special terms of Section 305, and the latter is the special act. As said by this Court in *Ex Parte, U. S., Petitioner*, 226 U. S. 420-424:

> "When the issue is thus narrowed solution is readily reached by the application of the elementary rule that a special and particular statutory provision, affording a remedy for particular and specific cases, is not repealed by a general law unless the repeal be expressed or an implication to that end be irresistible. *Petri* v. *Creelman Lumber Co.*, 199 U. S. 487, 497."

See also *Townsend* v. *Little*, 109 U. S. 504, 512; *U. S.* v. *Mathews*, 173 U. S. 381; *Rogers* v. *U. S.*, 185 U. S. 83.

B. The Government contends that Congress enacted Section 305 in view of the administrative interpretation in that the Administrator assumed that 305 would not be applicable after July 2, 1927. It is true as set forth in the

[6] The unpaid premiums together with interest are deducted from the face of the matured policy.

appendix of the Government's brief, that both by letter to the House Committee (H. R. 1217, 69th Congress, First Session), and by testimony before the Senate Committee (hearings before the Senate Committee on Finance, H. R. 12175 May 24, 1926, page 13), that he would so assume, however, as pointed out by the Circuit Court in its opinion (R. 58) these statements were not incorporated in the Committee Report, but were excluded from it, and state no practice whatsoever, hence this assumption of the Administrator cannot be considered in determining the legislative intent.

The Government further contends that the opinion of the Circuit Court is contrary to the settled administrative practice and have set forth in their appendix the memorandum from the General Counsel to the Director, dated February 23, 1928, in the *case of Morris Cherniovsky* (Pet. Brief 58-62). However, this appears to be an isolated case, long subsequent to the enactment of Section 305 and its does not appear that it has been followed in any subsequent case with the possible exception of the *case of Joseph T. Wargo* (Pet. Brief 62-65), which case it appears was determined subsequent to the opinion of the Circuit Court in the present case, apparently for the purpose of now showing a practice which in fact did not exist, and should not be considered by this Court as of course it was impossible to have been considered by the Circuit Court. In any event as pointed out by the Circuit Court in its opinion, "The interpretation of the statute is clear on its face. It follows that the administrative construction is not decisive" (R. 57).

C. Finally it is urged that if any doubt exists as to the applicability of Section 305 to effect a revival of lapsed term insurance after July 2, 1927, where the conditions specified in that section have been met, that such doubt should be resolved in favor of the insured by reason of the beneficent purpose of Congress toward the veterans in its entire legis-

lation, and because of the liberality of construction to be indulged in favor of the insured. *White* v. *U. S.*, 270 U. S. 175; *U. S.* v. *Arsner*, 187 U. S. 470; *U. S.* v. *Patryas*, 303 U. S. 341; *U. S.* v. *Jackson*, 302 U. S. 628.

CONCLUSION.

It is respectfully submitted that the judgment of the Circuit Court of Appeals was correct and should be affirmed.

Respectfully submitted,

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pp. 1-2.

SUPREME COURT OF THE UNITED STATES.

No. 154.—October Term, 1938.

United States of America, Petitioner,
vs.
Kathleen McClure, as Administratrix of the Estate of John F. McClure, Deceased, and Individually.

On Writ of Certiorari to the United States Circuit Court of Appeals for the Ninth Circuit.

[January 3, 1939.]

Mr. Justice Black delivered the opinion of the Court.

We are called upon to determine whether Section 301 or Section 305 of the ~~War Risk Insurance~~ World War Veterans' Act[1] applies to a lapsed policy of War Risk yearly renewable term insurance.

Section 301 authorizes conversion of such policies and provides (with exceptions not applicable here) that "All yearly renewable term insurance shall cease on July 2, 1927, except when death or total permanent disability shall have occurred before July 2, 1927: . . . . . "

Section 305 provides that "Where any person has heretofore allowed his insurance to lapse, . . . while suffering from a compensable disability for which compensation was not collected and dies or has died, or becomes or has become permanently and totally disabled" while "entitled to compensation remaining uncollected . . . his insurance . . . shall not be considered as lapsed;" and the Veterans' Administration shall pay him or his beneficiaries "so much of his insurance as said uncollected compensation . . . would purchase if applied as premiums when due . . . less the unpaid premiums and interest at five per centum compounded annually in installments."

John F. McClure, a World War Veteran, allowed his yearly renewable term insurance to lapse by failing to pay the premium due February, 1919, "while suffering from a compensable disability for which compensation was not collected." December 1, 1929, when he became permanently and totally disabled, there remained uncollected compensation due him sufficient to pay all premiums then due on his lapsed policy. The veteran brought suit on his policy

[1] 38 U. S. C., Sections 512 and 516, 44 Stat. 686, 790.

alleging total and permanent disability and, at his death, respondent—as administratrix and individually—filed an amended complaint seeking recovery under Section 305. The District Court held that the insurance was not revived under Section 305 and entered judgment for the government. The Circuit Court of Appeals reversed,[2] believing Section 301 did not limit Section 305 and that respondent was entitled to judgment on the policy, contrary to the result reached by the Circuit Court of Appeals for the Tenth Circuit.[3]

Since this veteran's lapsed policy was "yearly renewable term insurance" and his permanent disability occurred after July 2, 1927, the question is Did such insurance cease to exist on July 2, 1927 because of the general sweeping provisions of Section 301, or was lapsed yearly renewable term insurance—such as his—saved by the special benefits extended under Section 305? We find the answer in the language of the original War Risk Insurance Act and its amendments.

That original Act of October 6, 1917,[4] provided government insurance without medical examination for persons engaged in war services. Yearly renewable term insurance was granted with provision for conversion into other forms of insurance without medical examination not later than five years after the termination of the war.

August 9, 1921, Congress amended this Act and added Section 408.[5] Section 408 greatly liberalized the rights of veterans, both to reinstate and to revive lapsed "yearly renewable term insurance." First. Veterans suffering from disability contracted in active war service were permitted to reinstate their policies despite such disability. Second. Veterans' insurance which had lapsed while the veterans were suffering from service connected disabilities for which compensation had not been paid—as here, was revived in the amount which such uncollected compensation—at death or date of total disability—would purchase. This first provision of Section 408 was the original predecessor of Section 304; the second provision—relied upon to enforce McClure's policy—became Section 305.

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[2] 95 Fed. (2d) 744.
[3] Skelton v. United States, 88 Fed. (2d) 590.
[4] 40 Stat. 398, 410.
[5] 42 Stat. 147, 156.

By the Act of March 4, 1923,[6] Congress broadened both beneficial provisions of Section 408 and left it as a single Section. But in 1924, when Congress revised the War Risk Insurance Act,[7] these twin provisions of Section 408 were severed and thereafter appeared as two separate and distinct paragraphs, Sections 304 and 305. Section 304 incorporated that portion of Section 408 which had provided for reinstatement of lapsed term insurance despite physical disability. Section 305 reenacted the second provision of Section 408 which had authorized utilization of uncollected compensation for revival of such lapsed insurance. It is of vital significance that Congress in creating these two new Sections was careful to limit reinstatement of lapsed term insurance by concluding Section 304 with the pointed proviso "That no term insurance shall be reinstated after July 2, 1926." But Congress placed no such limitation on the right of revival under Section 305, on which this suit is brought.

The action of Congress in restricting the benefits only under one of the two Sections must be considered together with Section 301 of the same 1924 Act which provided that "All term insurance shall cease on July 2, 1926, except when death or total permanent disability shall have occurred before July 2, 1926." Congress in this 1924 Act, clearly evidenced its purpose to prohibit reinstatement of yearly renewable term policies under Section 304 after July 2, 1926, in order to make Section 304 conform to Section 301 which authorized conversion of such policies prior to that date. Reinstatement under 304, however, required action by the veteran. He was required to submit application, to comply with statutory and administrative regulations, and to pay back premiums. But action by the veteran was not required to revive a lapsed policy under Section 305. His rights did not depend upon application, proof, compliance with regulations or payment. Because his policy had lapsed while the government owed him money for service connected disability which had become total and permanent, his lapsed policy was automatically revived. To have required action on his part would have been inconsistent with the manifest purpose of Congress to permit revival and continuation of insurance solely because the government had in its possession funds due the veteran and sufficient to pay for his insurance.

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[6] 42 Stat. 1521, 1525, 1526.
[7] 43 Stat. 607, 625, 626.
[8] 44 Stat. 686.

June, 1926,[9] Section 301 was amended extending the date for conversion of yearly renewable term insurance to July 2, 1927, and the following month the proviso of Section 304 was specifically amended to conform to the June amendment to 301, by prohibiting reinstatement of such insurance after July 2, 1927.[9] Although the right of reinstatement under Section 304 thus was again specifically restricted, Congress in no way indicated any intention to add the same restriction to the right of revival under Section 305 on which the present suit is based. Instead, the benefits under Section 305 were extended by the July amendment so as to permit beneficiaries to apply uncollected bonuses to the lapsed policies of deceased veterans. Congress again gave special attention to Section 305 in 1928[10] and authorized the revival of lapsed policies by utilization of compensation otherwise uncollectible because barred by limitations. Continuing the separate consideration and treatment of Sections 304 and 305, Congress in 1930[11] once more applied the restrictive proviso to Section 304 but not to Section 305.[11]

The deliberate intention of Congress to apply different restrictions to the right of reinstating lapsed policies under Section 304 and that of reviving such policies under Section 305 was also made manifest by other changes in the Act of July 2, 1926.[12] While reinstatement of yearly renewable term insurance under 304, but not revival under 305, was therein prohibited after July 2, 1927, a new proviso was added to 305 under which the "insurance hereafter revived under this section [305] . . . shall be paid only to the insured, his widow, child or children, dependent mother or father, . . ." On the other hand, there is no such limitation as to beneficiaries of policies reinstated under the provisions of Section 304. This studied limitation of the government's liability on policies revived under Section 305, by restriction of beneficiaries, indicates a distinctive legislative consideration and treatment of that Section.

To hold that a lapsed yearly renewable term insurance policy cannot be revived under Section 305 would be to apply to that Section, by construction, the proviso which Congress attached only to 304. Sections 304 and 305 are distinct parts of the statute which contains them. While both Sections emanated from a single prior

[9] 44 Stat. 790, 799.
[10] 45 Stat. 964, 971.
[11] 46 Stat. 991, 1001, Sec. 23.
[12] 44 Stat. 790, 799, 800.

Section, Congress evidently separated them to provide for the individual treatment that has been given reinstatement as distinguished from revival of lapsed policies. A deliberate separation of the two parts of the old Section—applying a restriction to one and not the other—indicates that a change was intended.[13] This is in accord with the presumption that a proviso "refers only to the provision to which it is attached."[14]

In the light of the statutory development of the War Risk Insurance Act, there is no conflict between the general provisions of Section 301 requiring conversion of yearly renewable term insurance by July 2, 1927, and the special benefits granted by Section 305 to that particular group of veterans to whom the government had not paid disability compensation which was justly their due. The benefits of the special provisions of Section 305 are extended to every veteran who has "heretofore allowed his insurance to lapse, . . ." The meaning of the words of the statute is apparent and we need not look beyond the language and statutory development of the War Risk Insurance Act.[15] A lapsed policy, whether yearly renewable term or in converted form, comes within the provisions of Section 305.

Since the veteran in this case was due compensation for service connected disabilities at the time his policy lapsed and at the time he became totally and permanently disabled the amount of his uncollected compensation was sufficient to pay all premiums then due, his insurance was revived under Section 305. The judgment of the Circuit Court of Appeals is therefore affirmed.

Affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.

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[13] Cf. Brewster v. Gage, 280 U. S. 327, 337; United States v. Perryman, 100 U. S. 235, 238.

[14] United States v. Morrow, 266 U. S. 531, 535.

[15] Cf. Standard Co. v. Magrane-Houston Co., 258 U. S. 346, 356.